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ber, 1914, in reply to my article on the same subject in the April number of THE REVIEW, I am very grateful to you for the privilege of at least a few words in reply thereto in the form of a note.

In a note to my original article I say:

"The limits of this paper do not permit the discussion and analysis of cases decided by the Supreme Court of the United States from *Ware v. Hylton*, 3 Dallas, 199, to *Geofroy v. Riggs*, 133 U. S., 258, which are claimed to be opposed to the views expressed above. It is confidently asserted that no case has been decided by the Supreme Court involving the direct question herein discussed."

My confidence in this statement is not abated by Professor Corwin's statement that it is "plainly without merit"; and into another forum more suited to this discussion I cordially invite him.

Ware v. Hylton has been cited for one hundred and twenty years, but rarely quoted, for the proposition that a treaty can repeal or override a law of a State. I am satisfied that it can be demonstrated to any unprejudiced legal mind that the case not only did not decide that question, *but that under the pleadings in the case it could not have decided it.*

But I submit that Professor Corwin, with a frankness which is not common to those of his school in discussing this subject, has let the cat out of the bag when he says: "On . . . the relations of the treaty-making power to the reserved rights of the States, our conclusion must be that the latter do not limit the former to any extent; that, in other words, *the United States has exactly the same range of power in making treaties as it would have if the States did not exist.*" (Italics his.) In other words, to prove his proposition that the treaty-making power is supreme over all State powers, with one stroke of the pen he abolishes the States with their powers, and then triumphantly acclaims the supremacy of the treaty-making power over the annihilated States. The victory of one party to a controversy over the other may always easily be attained by the abolition or destruction of the opposing party.

This statement is indeed of surpassing interest, for he recognizes in my article "the spread of the dissolving theories of the 'Great Nullifier.'" He is shocked at my attempted nullification of a Federal power, but suggests *the annihilation* of the States, without which the Federal power could not exist. I commend to him the words of *Macbeth*:

"We but teach

Bloody instructions, which, being taught, return
To plague the inventor! this even-handed justice
Commends the ingredients of our poison'd chalice
To our own lips—"

HENRY ST. GEORGE TUCKER.

PROFESSOR USHER'S VIEWS

DENVER, COLORADO.

SIR,—I want to call attention to what I think is a vital error into which Professor Usher has fallen in his very readable article, "The Real Mexican Problem," in the July NORTH AMERICAN REVIEW.

Professor Usher seems to conclude that as it was covetousness that led to the taking of the North American Indian's land away from him by the

whites, and also, in the dealings with Mexico, when the whites took Texas and the large zone included in the settlement following the Mexican War, in like manner the Indians of Mexico will be deprived of their country. While this theory may be true of the former two incidents pointed out by Professor Usher, it is not, nor cannot be true of the present situation, for the very vital reason that the land of Mexico is not now in the hands of the native Indians, but is in the hands of Spaniards, natives of both Mexico and Spain, and other whites, and in this very important fact many of us believe the seat of the present revolution to originate. It is, many contend, the beginning of the effort of the Indians to "go the other way around" and take the land away from the non-using white landlords. If the greed of the class of white people in the United States known as the privilege-seeking interests is to go so far as to now, having taken the and from the Indians within the present bounds of the United States, they are to begin to take the land away from one class of whites for the advantage and benefit of another class of whites, I grant that Professor Usher is correct in his conclusions. The underlying motive of those championing the policy of the United States conquest of so much of Mexican territory as was effected by the Texas and Mexican War was the privilege of gathering in the unearned increment, when stripped of all deceptive diplomatic falsehood.

The native Mexicans are now a people without a country, and the saying that "the men who own the land of a country own the people" is certainly pathetically true of Mexico to-day, you may truly say, for, from the best source of information, about eighty per cent. of the land of the country is in the hands of less than five per cent. of the people, and of this five per cent. over seventy per cent. are white people. No, there is the "flaw in the sapphire" in Professor Usher's deductions. The Indians own little land to be deprived of. The Indians within the present zone of the United States did possess the lands of which the whites, as he states, so unjustly and barbarously deprived them, but in the present situation the Indians of Mexico have long since been deprived of their lands. The revolution now in progress will, I fear, only be settled when the people of Mexico restore to themselves the rights of which the non-using landlords have deprived them, and by which advantage the latter are "farming" the farmers of Mexico. Nothing but an equitable laying of public burdens will settle the questions up for solution in Mexico. When an enduring and permanent civilization is established, *occupancy and use* will be the only title to land, and then the wrongs such as Professor Usher points out, and yet fears will be further enacted, will cease, not only in the dealings with the aborigines in the Western Hemisphere, but throughout the civilized world.

In some measure, I think, this feature of the subject should be brought to the attention of THE REVIEW readers. You may not fully realize it, but in its genuine democracy lies THE REVIEW's remarkable strength with the people.

Yours respectfully,

D. D. SHIRLEY.